

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : 15-CR-0302-01
v. : U. S. Courthouse
IMRAN RABBANI, : Brooklyn, New York
Defendant. : August 9, 2016
: 10:00 o'clock a.m.

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TRANSCRIPT OF SENTENCE
BEFORE THE HONORABLE MARGO K. BRODIE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: ROBERT L. CAPERS
United States Attorney
By: DOUGLAS PRAVDA
IAN RICHARDSON
Assistant U. S. Attorney
225 Cadman Plaza East
Brooklyn, New York 11201
For the Defendant: RICHARD WILLSTATTER, ESQ.
MARYAM JAHEDI, ESQ.

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Proceedings recorded by mechanical stenography, transcript
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(Case called; both sides ready.)

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MR. RICHARDSON: Good morning, your Honor. I am
Richardson and Douglas Pravda for the United States.

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THE COURT: Good morning.

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MR. WILLSTATTER: Good morning. Richard Willstatter
and Maryam Jahedi for the defendant, who is present.

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THE COURT: Good morning, Mr. Rabbani.

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THE DEFENDANT: Good morning.

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THE COURT: We're here for sentencing today, and
before I proceed with that, I want to acknowledge that on
April 8, Mr. Rabbani waived indictment by a grand jury. He
consented to proceed as an adult for purposes of criminal
prosecution, and he pled guilty before Magistrate Judge Robert
M. Levy to a superseding information charging him with 18 USC
Section 372, conspiracy to impede federal officers.

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I have reviewed the plea transcript with regard to
Mr. Rabbani's decision to waive the filing of the juvenile
information and consent to being transferred for criminal
prosecution as an adult. I find that the decision was
voluntary and knowing, and I accept the defendant's consent to
proceed as an adult for purposes of criminal prosecution.

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I also find that Mr. Rabbani knowingly and
voluntarily waived his right to proceed by grand jury and
instead had the U.S. Attorney file a superseding information

1 against him, charging him with conspiracy to impede federal
2 officers, and I have reviewed the plea minutes from
3 Mr. Rabbani's allocution. I find that the plea was in fact
4 knowing and voluntary and that there is a basis in fact to
5 accept the plea, and I therefore accept the plea of guilty to
6 the sole count of the superseding information.

7 Before I proceed, I want to make sure that I have
8 all of the documents that were submitted by the parties.

9 I have before me the Presentence Report prepared by
10 Probation on June 28, 2016. I have an addendum to that
11 Presentence Report that's dated July 26, 2016. I also have
12 the Probation Department's sentencing recommendation, dated
13 August 8, 2016, copies of which I'm going to share with the
14 parties.

15 Mr. Willstatter, I'll give you a few minutes to
16 review that with your client, in a minute. I also have before
17 me the sentencing memorandum on behalf of Mr. Rabbani dated
18 July 7, 2016, with photos of the intersection of the incident,
19 a number of awards and letters, all of which I have read. I
20 have an August 2, 2016 letter from Mr. Willstatter, attaching
21 a letter from Mr. Rabbani, and a sentencing letter from the
22 government dated August 3, 2016.

23 Do I have all of the documents that were submitted
24 to the Court for sentencing?

25 MR. WILLSTATTER: Yes, your Honor.

1 MR. RICHARDSON: Yes, your Honor.

2 THE COURT: Okay. Thank you.

3 Mr. Willstatter, I'll give you a few minutes to
4 review the Probation Department's recommendation with your
5 client.

6 MR. WILLSTATTER: Thank you, your Honor.

7 (Counsel confers with the defendant.)

8 MR. WILLSTATTER: Thank you. I have had an
9 opportunity to review the recommendation of the United States
10 Department of Probation.

11 THE COURT: Okay.

12 Mr. Willstatter, have you and your client read and
13 reviewed and discussed the Presentence Report and the addendum
14 to the report?

15 MR. WILLSTATTER: We have, your Honor.

16 THE COURT: You can remain seated, Mr. Willstatter.
17 You do not need to stand.

18 MR. WILLSTATTER: Yes.

19 THE COURT: Okay.

20 According to the PSR, the total offense level is 19,
21 criminal history point is zero, criminal history category is
22 one, with corresponding Guideline range of 30 to 37 months.

23 Are there any objections to the PSR's calculation?

24 MR. WILLSTATTER: No, your Honor.

25 THE COURT: Are there any objections to any of the

1 factual allegations in the PSR?

2 MR. WILLSTATTER: I think the Court is seeing that
3 the only significant difference we have with the Department of
4 Probation is that they have characterized the offense conduct
5 as an assault, and in accordance with the guilty plea, the
6 information and the facts we have, we characterize it as a
7 conspiracy to interfere with and to dissuade law enforcement
8 officials from following Mr. Rabbani, which is a federal
9 crime, but there's no proof that anyone or certainly my client
10 agreed to attack or injure a federal law enforcement official
11 on the morning of June 13, 2015.

12 THE COURT: And your statements are consistent with
13 your objections to the report?

14 MR. WILLSTATTER: Yes.

15 THE COURT: Which were then addressed in the
16 addendum; correct?

17 MR. WILLSTATTER: They were.

18 THE COURT: Okay. Seeing that there is no further
19 objection to the PSR, I adopt the PSR as amended by the
20 addendum, and I specifically adopt the calculations that I
21 find consistent with the PSR. I find that Mr. Rabbani's
22 Advisory Guideline Range is a total offense level of 19, zero
23 criminal history points, a criminal history category of one,
24 producing a Guideline range of 30 to 37 months' imprisonment,
25 a supervised release term of one to three years, a fine range

1 of 6,000 to 60,000, and a \$100 dollar special assessment.

2 Turning to the 3553(a) factors, I have considered
3 the relevant factors set out by Congress in 18 USC Section
4 3553(a), including the Advisory Guideline, to insure that I
5 impose a sentence that is sufficient but not greater than
6 necessary to comply with the purpose of sentencing.

7 In addition to the policy statements, Mr. Rabbani, I
8 must and I have also considered the nature and circumstances
9 of the offense, the history, your history and characteristics,
10 the need to avoid unwarranted sentence disparities among
11 similarly situated defendants and the types of sentences that
12 are available to me.

13 Mr. Willstatter, do you wish to argue the
14 application of the factors, request a variance, or otherwise
15 make a sentencing recommendation? As you see from the
16 submission of the government, the government is arguing for a
17 Guideline sentence at the high end of the Guideline, and as
18 you saw from the Probation Department's recommendation, the
19 Probation Department is recommending a sentence of 24 months.

20 I've read all of the submissions, but I'm happy to
21 hear any additional arguments that you would like to make.

22 MR. WILLSTATTER: Thank you, your Honor.

23 With the Court's permission, I will remain seated
24 while I do this.

25 THE COURT: Please do.

1 MR. WILLSTATTER: Your Honor, present in court is
2 the defendant's parents, the defendant's brother, Ikram
3 Rabbani, Martin Levy, the high school social studies teacher
4 who wrote a very nice letter on behalf of Mr. Rabbani that the
5 Court may have seen.

6 THE COURT: I've read all the letters,
7 Mr. Willstatter.

8 MR. WILLSTATTER: And numerous members of his
9 community and the Muslim Center of New York in particular have
10 appeared here to support my client.

11 Your Honor, my client, Mr. Imran Rabbani, is a young
12 man who was seventeen years of age when he was arrested. He
13 was not yet graduated from high school, and he was very smart
14 but very immature in many of the choices that he made in his
15 life, in particular in befriending a young man by the name of
16 Munther Omar Saleh.

17 It was his relationship with Munther Omar Saleh
18 which brought him to the court here. In contrast to what the
19 Probation Department said, it was not his relationship with
20 members of his masjid or mosque that caused problems for him.
21 It was his relationship with one particular person, who was
22 the son of a storekeeper or manager at the Metropolitan Foods
23 around the corner from where he lived in Queens County, and he
24 befriended this person, and he did bring him to the mosque on
25 numerous occasions, and they had lots of discussions and

1 arguments. And he acknowledges to the Court in his own letter
2 that he should not have befriended this person and should not
3 have considered some of the things that Mr. Saleh was saying
4 to him, but he is not an adherent to a foreign terrorist
5 organization. He is not a terrorist. He's not a member of
6 ISIL. He loves the United States of America. His parents
7 love the United States of America. His brothers and sisters
8 love the United States of America. He is a Queens High School
9 graduate who is looking forward to the rest of his life in
10 New York City

11 He was imprisoned in solitary confinement for about
12 six months, and he experienced a great deal of anxiety and
13 disorientation after being plucked from his community and
14 placed in a jail cell. And to deal with that, he fortunately
15 had the services of the Social Services staff at the Essex
16 County Juvenile Detention Facility. And I have to tell you
17 that when I first heard he was being sent to Essex County
18 Juvenile Detention Facility, I was very upset, because I knew
19 about what the Essex County Adult Facility is like. And it is
20 an awful, awful place. But the Juvenile Facility is a
21 facility that I have come to learn with caring staff who
22 really try to help the youngsters there. And my client
23 actually benefited from working with those people in Essex
24 County, who deserve a lot of credit.

25 Notwithstanding knowing what kind of charges were

1 pending against Imran Rabbani, they disregarded that, and they
2 took him under their wing. And what did he do? He took three
3 college classes, every one that was offered, and he got
4 straight A's there.

5 And then they offered him a chance to participate in
6 the mock trial program that they run along with Rutgers Law
7 School in New Jersey, and he was selected to be the head of
8 the defense team at a mock trial at which all the other young
9 men who were at that facility watch in the audience. The law
10 students prepare the defense team and the prosecution team for
11 a case, and a judge from New Jersey sits and makes rulings.
12 And he did very well.

13 But I was surprised, and I think the Court will see
14 in the letter from Professor Laura Cohen, that he did an
15 absolutely amazing job as the defense lawyer in that case.
16 Her words to me were that, He should be an attorney. But he's
17 too young to pick a job title for what he's going to do with
18 the rest of his career, but I think it's clear that he is a
19 talented and a young man who has a lot of potential.

20 And we see that in the letter from his high school
21 social studies teacher, Martin Levy, who took time out of his
22 day to come here today to support Imran Rabbani, he describes
23 Imran Rabbani as a respectful young man with a warm heart, not
24 a danger or scary person in any way, shape or form.

25 This young lady, Prema Saha, who is the one that he

1 was communicating with that the government was surveilling him
2 when they were talking about helping homeless people, she
3 writes that he is, you know, the kind of warm, loving
4 personality that he had, and they had a platonic relationship,
5 was something that she would only imagine in a Disney movie.
6 I didn't write this letter. Prema Saha wrote the letter.

7 So, we have not just letters from his family, which
8 are poignant in their own way. We have a young man who has
9 two elder brothers, each of whom has been and continues to be
10 extremely successful in the secular world. Imran Rabbani will
11 start St. John's Law School tomorrow, and he expects to join,
12 or he hopes -- it's his dream -- to join the United States
13 Army Judge Advocate General Corps as a lawyer/soldier for the
14 United States. And Ikram Rabbani will be a senior later this
15 month. I think it's a college in Carlisle, Pennsylvania, and
16 he was the valedictorian of John Baum High School in Queens
17 County.

18 But significant for this Court is not just that my
19 client's parents are committed to supporting their son, but my
20 client's capable older brothers are assuring the Court that
21 they will do everything they can to mentor him to continue on
22 the right path for his life.

23 So, he's served fourteen months' imprisonment now,
24 which is the equivalent of about 16 months, maybe a little bit
25 more, if he was sentenced to that term in a federal

1 correctional facility. But I know that it is not going to be
2 helpful to his future for him to be further imprisoned. And
3 he has been -- he did serve six months in a SHU or solitary
4 confinement. He has been punished. And he acknowledges that
5 the Court has the authority to sentence him up to 72 months'
6 imprisonment, but we really feel, under these circumstances,
7 that a sentence with the equivalent of 16 months in federal
8 prison is sufficient, and that a sentence of longer would be
9 greater than necessary to address his particular needs and the
10 goals of the Sentencing Reform Act, including deterrence.

11 No one is going to sign up, s, I want to go serve 14
12 months in jail, I want to lose my family, and I want to get a
13 felony conviction.

14 As I pointed out in reference to Judge Block's
15 recent decision, he will face many obstacles that other young
16 men will not face. I'm confident that he'll be able to
17 overcome those obstacles, but those collateral consequences
18 are also part of the punishment that is being imposed upon
19 him.

20 I want to address, for a moment, the recommendation
21 that the government has made in their sentencing memorandum.
22 In addition to recommending the harsher possible sentence
23 under the Guidelines, the government has recommended some
24 special conditions of supervised release.

25 First, let me just say that, with respect to the

1 request for mental health professionals and mentors who are
2 approved -- selected with the assistance and approval of the
3 U.S. Attorney's Office, that first of all, the only indication
4 that my client has any kind of difficulty has to do with an
5 adjustment disorder which was diagnosed by Dr. June. And I
6 point out that an adjustment disorder is a short-term
7 condition that occurs when a person has grave difficulty
8 coping with or adjusting to a particular source of stress --

9 THE COURT: Mr. Willstatter, I can short-circuit
10 your argument with regard to the recommendations by the
11 government. I do not plan on imposing that recommendation.
12 As you've seen, the recommendations of the Probation
13 Department, I do plan to impose the recommendations of the
14 Probation Department.

15 The only additional condition I plan to impose from
16 the government's recommendation, which I think is subsumed in
17 the recommendation of the Probation Department, in any event,
18 is that your client have no contact with his coconspirators.
19 Other than that, the recommendations by the government, most
20 of them, have been addressed by the Probation Department. As
21 to the mental health professional, I don't find it necessary
22 here.

23 MR. WILLSTATTER: Okay.

24 With respect to the first condition, it describes
25 something called the Internet Monitoring Program.

1 THE COURT: I've just addressed your concern,
2 Mr. Willstatter. Are you referring to the Probation
3 Department's recommendation? Yes. What about it?

4 MR. WILLSTATTER: Well, I'm not sure what their
5 Internet Monitoring Program is.

6 THE COURT: It's a standard program that's used with
7 child pornographers, that monitors the use of the Internet by
8 the defendant, and it is one that I do plan on imposing. If
9 you want to be heard in objection to that, I'm happy to hear
10 from you.

11 MR. WILLSTATTER: Well, I don't have an objection to
12 the standard search condition of submitting his person,
13 property and house, residence, vehicle, papers and computers
14 to search. But I do have an objection to the Internet
15 Monitoring Program, because under 18 USC 3563, only such
16 deprivations of liberty or property as are reasonably
17 necessary for the purposes of Section 3553(a)(2) can be
18 approved, and I don't think that there is a sufficient
19 individualized assessment that he needs this particular
20 condition. You know, it's one thing to have his everything be
21 subject to search. It's another thing to have a real-time
22 monitoring of every --

23 THE COURT: It is not real-time monitoring,
24 Mr. Willstatter. Why don't I read the recommendation. The
25 government is asking for real time. That is not what the

1 Probation Department is recommending.

2 MR. WILLSTATTER: Yes. It just says "monitor." The
3 difference between monitored and real-time monitoring escapes
4 me.

5 THE COURT: There's a huge difference,
6 Mr. Willstatter, I assure you

7 Do you have any other objection --

8 MR. WILLSTATTER: Okay.

9 THE COURT: -- or any other argument in support of
10 your objection that you would like me to consider?

11 MR. WILLSTATTER: Yes. Not in support of my
12 objection.

13 THE COURT: Okay.

14 MR. WILLSTATTER: But I did want to point out that
15 although at one time Mr. Rabbani espoused some troubling
16 beliefs, a defendant's abstract beliefs, however obnoxious to
17 most people, may not be taken into consideration by a
18 sentencing judge. And that's just not me talking. That's the
19 United States Supreme Court in a case called Wisconsin vs.
20 Mitchell, reported at 3508 United States at 476, a 1993 case.

21 As quoted in United States vs. McLaurin, from the
22 Second Circuit in 2013, that was the case rejecting the
23 condition of supervised release called plysmograph.

24 THE COURT: What's your argument, Mr. Willstatter?

25 MR. WILLSTATTER: Well, just that the government

1 seems to be focused entirely or for the most part on some
2 comments that Mr. Rabbani made in May and June to Mr. Saleh.

3 But what the offense conduct is is, in trying to
4 stop the police officers from following him, that he did, both
5 on
6 June 5, when they confronted the police officers near the
7 Allah Man Mosque and called 911 to ask for help in trying to
8 stop these people who were following them, and then again on
9 June 13, this is the offense conduct for which Mr. Rabbani is
10 being sentenced. And it is a serious crime, and he accepts
11 responsibility for that crime

12 And more importantly, whatever thoughts that he had
13 in May or June of 2015 is not where he's headed with the rest
14 of his life. And we have -- it's not just what he's saying,
15 but everybody who has come in contact with him, from the
16 psychologist at Essex County to the professor at Rutgers Law
17 School to the teacher at the high school and to his other
18 friends and family members, he does not present a danger to
19 this community. So, I ask you to sentence him to a period of
20 time served. And that completes my application.

21 THE COURT: Thank you, Mr. Willstatter.

22 Mr. Rabbani, you have the right to make a statement.
23 You do not have to. I have your written statement, but if
24 there's anything else that you would like this Court to
25 consider before sentencing you, please do.

1 THE DEFENDANT: Thank you.

2 Your Honor, it's been a long haul, and it's been
3 quite a journey. I spent about fourteen months in jail, and
4 about five or six of those months in solitary. If I learned
5 anything, I learned that time is really precious, and time
6 wasted is time that I'm never getting back.

7 During that period, I was buried in books and my own
8 deep thoughts. I came across a saying by Socrates, the famous
9 philosopher, that the unexamined life is not worth living.

10 I made many mistakes, and I probably made more
11 mistakes than the average person, but to dwell on those
12 mistakes and remain idle is just pointless to me. I made a
13 mistake of getting out of that car and running at the law
14 enforcement officer. I made a mistake, and I want to
15 sincerely apologize, if he's in this room. I don't know him,
16 but if he's in this room, I'm sorry. I hope that the time
17 I've spent has compensated for what I have done. I'm ready to
18 leave. Your Honor, I'm ready to make something of myself.
19 I'm ready to stand up on my own feet. Sorry.

20 THE COURT: Take your time.

21 THE DEFENDANT: I have disappointed many people in
22 my life, including my family and, most importantly, myself.
23 But that doesn't mean that I can't make amends for what I have
24 done. Whatever sentence you deem appropriate and you impose
25 on me, I'm going to have to do that, one way or the other, and

1 I'm going to use that time wisely to the best of my ability.

2 I want you to know that if you grant me time served,
3 it's going to give me a head start to do something productive
4 with my life. I want to do something. Something good.

5 Something good that affects the entire community and my own
6 family as well as myself. Everything that's happened so far
7 has made me realize that, you know, I can change, and I have
8 changed, and I will continue to do so, one day at a time. You
9 know, everybody who I came across when I didn't have this
10 mindset, they always saw the best in me, and I think it's time
11 that I see that best in me. It's really it. Thank you for
12 letting me speak.

13 THE COURT: Thank you, Mr. Rabbani.

14 The government.

15 MR. RICHARDSON: Thank you, your Honor.

16 We'll be brief. I know that the Court is well aware
17 of the circumstances of the defendant's arrest, both from the
18 transfer hearing this court presided over, and the Presentence
19 Report and the government's submissions.

20 I think it's worth underlining the significance of
21 this crime derives in large part from the dangerous path that
22 the defendant was on in the weeks leading up to that crime,
23 and that is that he befriended a man that he knew held
24 extremist -- violent extremist views. And more than just
25 befriending him, he ignored the advice of people he trusted in

1 the community around him to not associate with him. He
2 exchanged messages with him, in which he expressed support for
3 the same violent ideology, and he, after being followed by law
4 enforcement, discussed the fact that he was being followed by
5 law enforcement with that man, and took steps to conceal his
6 communications by using an encrypted messaging application.

7 Now, despite all of these red flags, that is the man
8 the defendant chose to jump out of the vehicle with, armed
9 with a knife, and charged a vehicle that he believed was the
10 law enforcement vehicle. That makes this crime more serious
11 than the generic conspiracy to impede law enforcement
12 officers, for which the Guidelines would recommend 30 to 37
13 months' imprisonment in any generic case.

14 The government hopes that the defendant is genuine
15 about his desire to change his life and to choose now a
16 different path, but the Court's sentence should take into
17 account the nature and circumstances of the defendant's
18 offense in order to provide just punishment for that offense
19 and in order to specifically deter both this defendant and
20 provide general deterrence for the crime that he committed.

21 I think Mr. Pravda would like to address the
22 supervised release conditions that the government has
23 recommended in this case, understanding, of course, that your
24 Honor has made your views known on those.

25 THE COURT: Okay.

1 MR. PRAVDA: Thank you, your Honor.

2 If I could first respond to Mr. Willstatter's
3 objections with respect to the Probation Department's
4 recommendation for a search condition and the computer
5 monitoring. Let me first say that I think the Probation
6 Department's revised recommendation for supervised release
7 special conditions incorporates virtually all of what the
8 government recommended, together with your Honor's
9 qualification that you would restrict him from specifically
10 associating and contacting his coconspirators, Saleh and
11 Fareed Mumuni.

12 THE COURT: Specific things that it does not
13 incorporate is the request of the government that the
14 government be notified if in fact these conditions are somehow
15 not complied with.

16 MR. PRAVDA: If the conditions are violated, your
17 Honor, it would be standard for Probation to notify the
18 government of those violations.

19 THE COURT: Correct. If there is a violation. But
20 as written in the proposal by the government, it doesn't refer
21 to that. It simply says that it seeks monitoring, and it
22 seeks that it be notified of the results, and that, I believe,
23 is inappropriate, which is why I'm rejecting the government's
24 request.

25 I do believe, as I stated earlier, that all of the

1 conditions, or at least with regard to the concerns expressed
2 by the government, the conditions as recommended by the
3 Probation Department does address those concerns, and I
4 believe that recommendation is sufficient here.

5 MR. PRAVDA: Your Honor, I agree with that. I don't
6 believe that our request to be notified was intended, for
7 example, the government to see in real-time the defendant's
8 communications, but simply to be notified specifically if
9 there were any communications that were in violation of the
10 conditions that the Court were to impose. So, we agree with
11 that.

12 It's not required, as Mr. Willstatter has suggested,
13 that the conditions specifically be the result of the offense
14 conduct. It would simply be emerged from the specific offense
15 conduct. It is sufficient for the Court to impose conditions
16 of supervised release so long as they are related to any of
17 Section 3553(a) factors.

18 And here, we have a situation where the defendant
19 spent several months searching online for YouTube videos
20 related to ISIL. News articles about ISIL. Websites about
21 ISIL. And engaging in electronic communications with Salih
22 about ISIL and about jihadist ideology. This specific
23 electronic monitoring search condition is designed to address
24 that particular conduct, which is acceptable, although it is
25 not related to the act of him jumping out of the car and

1 charging at the law enforcement officer.

2 I do want to address, also, your Honor's statement
3 about the recommendation by the government for periodic
4 meetings with mental health professionals and mentors. And I
5 recognize that the courts have said that you are not inclined
6 to impose that condition. And I just want to clarify, so that
7 the Court understands where we're coming from when we are
8 asking for that condition, which is that what we're trying to
9 accomplish is to help Probation be able to help the defendant.

10 We're not suggesting that the defendant has some
11 kind of mental health condition that requires treatment, but
12 simply that, as Mr. Willstatter argued in his sentencing
13 submission, the defendant would be benefited greatly by the
14 presence of a psychologist that he met with regularly at the
15 Essex County Juvenile Detention Center. And that psychologist
16 submitted a report to the Court about how the defendant was
17 doing, and it certainly appeared, both from that report and
18 from the defendant's own sentencing submission, that his
19 ability to meet with that psychologist and to discuss, you
20 know, the path that he wanted to take was beneficial to him.

21 So, it was our idea that if the defendant could
22 continue to have periodic meetings with specialists, you know,
23 whether they have mental health training or are simply mentors
24 who have experience with counter violent extremism, that would
25 be something that could help him during the period of his

1 supervised release.

2 And our office has actually worked with the
3 Probation Department and defense attorneys in other cases to
4 understand how to responsibly conduct threat assessments in
5 cases like this one, and to be able to have defendants meet
6 with these professionals and these mentors to make sure that
7 they continue on the right path.

8 So as, Mr. Richardson said, we certainly hope that
9 the defendant's words to the Court today are genuine about his
10 wanting to change the direction that he was going in that led
11 to the crimes that he was charged with. But there would be
12 benefit, we believe, in having a formal mental health
13 professional and mentor system in place, where he would have
14 the ability to meet with those individuals who would work
15 closely with the Probation Department to make sure that he
16 does continue on that right path.

17 THE COURT: Thank you, Mr. Pravda.

18 MR. PRAVDA: Thank you, your Honor.

19 THE COURT: Would you like to be heard further,
20 Mr. Willstatter, with regard to that one recommendation?

21 MR. WILLSTATTER: Well, if the Court does not intend
22 to impose it, I don't need to say anything else. But if the
23 Court is considering imposing such a condition, then I would
24 like to be heard.

25 THE COURT: Please.

1 MR. WILLSTATTER: Your Honor, as I was pointing
2 out --

3 THE COURT: Let me narrow the issue. The issue is
4 whether or not he should be under the continued care of a
5 psychologist or someone else recommended by the Probation
6 Department to insure that Mr. Rabbani stays on the right
7 track.

8 MR. WILLSTATTER: Right.

9 So, there is no basis for a conclusion that he
10 requires mental health counseling, and so --

11 THE COURT: Mr. Willstatter, you yourself have
12 argued to the Court that he benefited from that kind of care
13 while he's been in the Essex facility.

14 MR. WILLSTATTER: True.

15 THE COURT: Why wouldn't he continue to benefit from
16 that?

17 MR. WILLSTATTER: Well, principally because the
18 problem that he had in the facility was adjusting to being
19 detained and the anxiety of not knowing what his future is.
20 That specific adjustment disorder is something that is
21 completely normal.

22 If we were to pluck any seventeen-year-old from
23 Queens County and put him in jail and tell him that he's
24 charged with a crime for which he could receive many years in
25 prison, if the person didn't have an adjustment disorder, I

1 might think that person is a sociopath. It's completely
2 normal to have had a lot of anxiety dealing with being taken
3 away from your family. And once this matter is concluded and
4 Mr. Rabbani is ultimately released, I see no reasonable basis,
5 and there has to be, a -- only such deprivations of liberty as
6 are reasonably necessary for the purpose of his 3553(a)(2).

7 Secondly, the government has suggested in their
8 papers that these mental health professionals should be
9 selected with the assistance and approval of the U.S.
10 Attorney's Office. And let me just say --

11 THE COURT: I'm not asking you to address that,
12 Mr. Willstatter, only the issue of whether or not one should
13 be imposed

14 MR. WILLSTATTER: All right. I'm not going to
15 address my argument with respect to that, because I think
16 that's improper.

17 I just see no basis for the appointment of
18 a "mentor." He will have a probation officer, whose function
19 is in part to offer guidance to the defendant, and we have
20 some very capable probation officers we are fortunate to have
21 in this district, who I'm sure would be interested in helping
22 Mr. Rabbani stay on the right path.

23 So, I see no basis in law for the appointment of
24 a "mentor," and if the Court, you know, finds a mental health
25 professional is somehow required and is going to order it,

1 then it certainly seems to me that there should be some degree
2 of confidentiality. Otherwise, it's just like submitting
3 yourself to a constant examination of your thoughts by the
4 government, and I think that that is a deprivation of liberty
5 that is uncalled for under the circumstances.

6 THE COURT: Okay. Thank you.

7 After assessing the particular facts of this case,
8 and in light of the relevant 3553(a) factors, including the
9 Sentencing Guideline, I do conclude that a sentence below the
10 Advisory Guideline Range is warranted, and I sentence
11 Mr. Rabbani, Imran Rabbani, to 20 months in custody and three
12 years of supervised release, with special conditions to that I
13 will discuss in a minute

14 Mr. Rabbani, I find that this sentence is sufficient
15 but not greater than necessary to comply with the purpose of
16 sentence. It reflects the seriousness of the crime that you
17 pled guilty to, conspiracy to impede federal officers.

18 As to the nature and circumstances of the offense, I
19 took into account your youthful age, the fact that your
20 conduct appears to have been influenced by Mr. Saleh, the fact
21 that, as you yourself acknowledged, this could have ended many
22 different ways. We're all thankful that it ended the way it
23 did and that no one was hurt.

24 The government argues that I should consider the
25 fact that it exercised its discretion and allowed Mr. Rabbani

1 to plead to the lesser charge of conspiracy to impede a
2 federal officer, rather than to the more serious charge of
3 conspiracy to provide material support to a foreign terrorist
4 organization.

5 In deciding what sentence to give Mr. Rabbani, and
6 as the government argued for a sentence at the top end of the
7 Guideline, the problem I have with this argument is the fact
8 that it's not clear to me that the government could have
9 proven the more serious charge here against Mr. Rabbani, at
10 least not based on the evidence that I have seen, either at
11 the hearing or in the submissions to me.

12 The evidence, as I understand it, is that in the
13 days leading up to the incident, Mr. Rabbani spent
14 considerable time with Mr. Saleh, an individual he knew to be
15 a supporter of ISIS, that the defendant made statements to
16 Saleh that he, the defendant, supported the ISIS ideology and
17 methods, and that Mr. Rabbani displayed hostility towards law
18 enforcement. That's the evidence.

19 While Mr. Rabbani's conduct demonstrates that he was
20 in fact being led down the wrong path by Saleh, nothing in his
21 conduct demonstrates that he conspired to provide material
22 support to ISIL. Thus, I reject the government's argument,
23 and I do assign considerable weight to the defendant's
24 argument.

25 In considering your history and characteristics,

1 Mr. Rabbani, in addition to your age, I took into account the
2 fact that you have no criminal history, that the only time you
3 have been in trouble with the law is when you stole your
4 neighbor's vehicle and went for a joyride, that you are and
5 you have been a good student, that despite your difficult
6 family circumstances, you and your siblings rose above it.
7 There are five children, and your parents and you have been
8 living in a one-bedroom apartment. That could not have been
9 easy. But as Mr. Willstatter pointed out, both of your older
10 brothers have gone on to do great things with their lives

11 I also took into account the fact that you worked
12 while you were in high school, so as not to burden your family
13 and in part to help your family. I read all the letters that
14 were submitted by your family members, your friends and other
15 people in your building who have known you.

16 In particular, the letter from your high school
17 friend, Prema Saha, gave me a very vivid picture of the type
18 of person you were in high school. She explained in detail
19 how you assisted her and others and convinced them to go to
20 school, to simply go to classes and not skip, like they did on
21 a regular basis, and to take their education more seriously.
22 She discussed how you encouraged her and others to take their
23 education seriously, go to class, and she talked about the
24 kindness that you demonstrated to her, to other students and
25 to complete strangers. She illustrated that point by telling

1 the story of the time that you helped this old lady cross the
2 street, even when she didn't want your help, that you saw that
3 there was a car coming at a very fast speed, and you jumped up
4 and down to make sure the car would stop and that little old
5 lady could cross the street. The letter from Sarmad Karatela,
6 who also explained that you went out of your way to assist
7 him, as a new immigrant when he joined the high school, to
8 help him with his work and to assist him in assimilating. And
9 the many other letters that were submitted on your behalf.
10 Those letters, more than anything else before me, to me
11 demonstrates who you are and the fact that there is much more
12 good than evil in you.

13 I have also considered your rehabilitation since you
14 have been incarcerated. I considered the fact that you have
15 been taking college classes, the quality of the work that you
16 have done, the fact that you have received the awards of
17 excellence, your participation in the mock bar trial, where
18 the professor at the law school commented on just how
19 impressed she was, not just with your ability to deal with the
20 subject matter, but the manner in which you handled yourself.

21 I also took into account that you have a plan for
22 your future, that you plan to continue attending college, to
23 graduate from college, and to make something of yourself. And
24 I recognize that you have a supportive family.

25 Your parents have been at every single appearance

1 that you have made in this courthouse, and I know that is not
2 easy for them, in view of the fact that if your father isn't
3 working, he's not getting paid and that he is the only
4 breadwinner. Your family, your community, they are all here
5 to support you. Based on all that I have seen of you and all
6 that I have read about you, I do have hope that you will turn
7 your life around, and that you have learned and that you will
8 continue to learn from your mistakes, and, as you said in your
9 letter to me, that you will continue to be cautious of whom
10 you call a friend.

11 So, in balancing all of these factors that I'm
12 required to consider, and in giving a great deal of
13 consideration to the many letters from your family and
14 friends, and your letter telling me what you plan to do, I
15 conclude that a sentence below the Guideline is an appropriate
16 sentence, and that is why I am sentencing you to 20 months in
17 custody.

18 I recognize that it is more than what you had hoped
19 for and what your attorney has argued for, but it's not
20 substantially more.

21 I am also sentencing you to three years of
22 supervised release with the following condition: You shall
23 not have any contact with your coconspirators, Munther Omar
24 Saleh and Fareed Mumuni. You shall not knowingly associate or
25 communicate in person, by mail, telephone or via electronic

1 communication or any other means with anyone who is engaged in
2 providing or attempting or conspiring to provide material
3 support to a designated foreign terrorist organization as
4 defined in the statute, 8 USC Section 1189, unless you're
5 granted permission to do so by your probation officer.

6 You shall cooperate with the Probation Department's
7 computer and Internet Monitoring Program. Contrary to
8 Mr. Willstatter's argument, I believe this is necessary. You
9 were communicating with Saleh via electronic means. The goal
10 here is to insure that while you're under supervision, you do
11 not go down that path again with Saleh or anyone else. That's
12 the purpose for this provision. It's not to punish you
13 further, but to help you and to make sure that when you do go
14 back home. In addition to your family and your friends, the
15 Probation Department will insure that you stay on the right
16 track

17 Cooperation with the Probation Department's computer
18 and Internet Monitoring Program shall include, but is not
19 limited to, identifying computer systems, Internet capable
20 devices and/or similar electronic devices that you have access
21 to, and allowing the installation of monitoring software or
22 hardware on these devices at your expense. You shall inform
23 all parties that access a monitored computer or similar
24 electronic device that the device is subject to search and
25 monitoring.

1 You may be limited to possessing only one personal
2 Internet capable device to facilitate the Probation
3 Department's ability to effectively monitor your
4 Internet-related activities. You shall permit random
5 examinations of any such computer systems, Internet capable
6 devices, similar electronic devices and related computer media
7 such as CD's that are under your control.

8 The standard search conditions require you to submit
9 your person, property, house, residence, vehicle, papers,
10 computers as defined in the statute 18 USC Section 1030(e)(1),
11 other electronic communications or data-storage devices or
12 media or office to a search conducted by the United States
13 Probation Officer. Failure to submit to a search may be
14 grounds for revocation of your supervised release.

15 Mr. Rabbani, you shall warn any other occupants that
16 the premises may be subject to searches pursuant to this
17 condition. A probation officer may conduct a search pursuant
18 to this condition only when a reasonable suspicion exists that
19 you have violated a condition of your supervision and that the
20 areas to be searched contain evidence of this violation. Any
21 search must be conducted at a reasonable time and in a
22 reasonable manner.

23 I'm also imposing the condition that you either work
24 or attend school on a full-time basis or hold a full-time
25 combination of both. You shall not possess a firearm,

1 ammunition or destructive device.

2 As to the mental health supervision, I am imposing
3 that. Probation Department will make a determination when and
4 if it is necessary, and if they determine that it is, they are
5 empowered to find you and to require you to attend mental
6 health treatment, participate in mental health treatment.

7 Do you understand that, Mr. Rabbani?

8 THE DEFENDANT: Yes.

9 THE COURT: I am not imposing a fine. I find that
10 you are unable to pay a fine. I am imposing a \$100 dollar
11 special assessment.

12 You can appeal your conviction if you believe that
13 your guilty plea was somehow unlawful or involuntary, or if
14 there is some other fundamental defect in the proceeding that
15 was not waived by your guilty plea. Under some circumstances,
16 a defendant also has the right to appeal his or her sentence.
17 However, a defendant may waive that right as part of a plea
18 agreement, and you have entered into a plea agreement which
19 waives your right to appeal your sentence. Such waivers are
20 generally enforceable, but if you believe the waiver itself is
21 not valid, you can present that theory to the appellate court.

22 Any notice of appeal must be filed within fourteen
23 days of the filing of the entry of the judgment, or within
24 fourteen days of the filing of a notice of appeal by the
25 government. If requested, the Clerk of the Court can file a

1 notice of appeal on your behalf. If you cannot afford to pay
2 the cost of an appeal or for appellate counsel, you have the
3 right to apply for the court to waive the filing fee, and on
4 appeal, you may also apply for court-appointed counsel.

5 I am dismissing the underlying juvenile information.

6 Is there anything else?

7 MR. RICHARDSON: No, your Honor.

8 MR. WILLSTATTER: Your Honor, can I be heard
9 briefly?

10 THE COURT: I'm not done yet, Mr. Willstatter, and
11 I'll give you that opportunity.

12 MR. WILLSTATTER: Certainly.

13 THE COURT: Mr. Rabbani, I do believe that you were
14 being led down the wrong path. I don't know what would have
15 happened if you weren't stopped that night. It's possible
16 that you would have gone down that path and you would be in a
17 very different situation before the Court. It's also possible
18 that you could have recognized that that was not the path for
19 you.

20 You had and you have a supportive family and
21 community, and I want to believe that maybe you would have
22 come to your senses even without the government's
23 intervention. I don't know. It's all irrelevant now. But
24 what does matter now is that you're not brought back to this
25 court for any reason. You're being given an opportunity to

1 continue with your life, to do what your brothers have done,
2 to do what your parents would love for you to do, which is to
3 succeed and to be a productive member of society. I hope you
4 take full advantage of that, and that you do use those talents
5 that everyone says that you possess. The fact that you could
6 convince so many of your classmates to go to school and not
7 skip classes, some of whom are now in college and they thank
8 you for that, for keeping them on the right track, tells me
9 that you are a very smart individual and someone with great
10 capabilities. So, I hope never to see you again, but I do
11 hope to read about the wonderful things that you will go on to
12 do. That's my hope to you, Mr. Rabbani.

13 Do you understand that?

14 THE DEFENDANT: Thank you.

15 THE COURT: Okay. Mr. Willstatter.

16 MR. WILLSTATTER: We greatly appreciate the Court's
17 careful attention to this matter. And the objections that I
18 am going to make to this particular special term -- special
19 conditions of supervised release --

20 THE COURT: Which one?

21 MR. WILLSTATTER: Special conditions of supervised
22 release. I'm concerned about --

23 THE COURT: Which one are you objecting to,
24 Mr. Willstatter?

25 MR. WILLSTATTER: The Internet monitoring, only

1 because I'm concerned that Mr. Rabbani wants to go to college,
2 and in 2016, it's pretty much impossible to go to college
3 without being able to access the Internet, and typically
4 people --

5 THE COURT: And he's not being prohibited from doing
6 that, Mr. Willstatter.

7 MR. WILLSTATTER: Well, it's going to be difficult
8 if he only has just this one device, because typically, you'll
9 go into the library and there's computers there. You know, it
10 might be difficult for him to attend college with this
11 condition. I mean, certainly he'll do the best he can.

12 THE COURT: Mr. Willstatter, it will be challenging,
13 because it is a condition. However, it's nothing that
14 Mr. Rabbani cannot deal with, work with Probation to address
15 and move forward. It is not a hardship to have this
16 monitoring system on any device that he's using. I have made
17 the finding that under the circumstances here, based on
18 Mr. Rabbani's conduct, it is a necessary condition. Probation
19 will work with him, because they, like you, want him to go to
20 college and they want him to succeed. So, it won't be a
21 hardship, and if it is, you'll make an application to me

22 MR. WILLSTATTER: Okay. That's what I will do.

23 Other than that, I have nothing to comment, your
24 Honor.

25 THE COURT: Okay.

1 Is there anything else from either side?

2 MR. RICHARDSON: No, your Honor.

3 THE COURT: Mr. Willstatter.

4 MR. WILLSTATTER: Your Honor, if the defendant is to
5 be placed by the United States Bureau of Prisons, I ask that
6 he be placed somewhere close to New York City in some suitable
7 facility such as a satellite camp. I understand that he will
8 not have a great deal of time that he'll be continuing to
9 serve, but he might be placed, so I ask the Court to make that
10 recommendation.

11 THE COURT: I will make the recommendation to the
12 Bureau of Prisons that Mr. Rabbani be placed in a facility
13 close to New York so that his family can visit him.

14 Is there anything else, Mr. Willstatter?

15 MR. WILLSTATTER: No, your Honor.

16 THE COURT: Okay. I wish you good luck, Mr.
17 Rabbani.

18 THE DEFENDANT: Thank you.

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